

Title 6: Economic Development

Part 3: Energy

Chapter 3: Energy Infrastructure Revolving Loan Program

Rule 3.1 Purpose. The Mississippi Energy Infrastructure Revolving Loan Program (EIRLP), administered by the Mississippi Development Authority (“MDA”) is designed for making loans to counties and incorporated municipalities to finance energy infrastructure projects to promote economic growth in the State of Mississippi. Funding for the loan program is derived from the issuance of state bonds. The State Legislature authorizes the Energy Infrastructure Revolving Loan Program during the 2013 regular session. See SB 2564, Regular Session 2013; Miss. Code Ann. §57-40-1 through 57-40-7 (1972, as amended).

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.2 Eligible Applicants. The application for assistance must be submitted by the governing authority of the county or an incorporated municipality.

Rule 3.3 Eligible Projects. Loans may be made to assist counties and municipalities in developing economic development projects that include a facility constructed after July 1, 2012, with a capital investment from private sources of not less than Fifty Million Dollars (\$50,000,000.00). Energy Infrastructure is defined as, but not limited to:

- A. Electrical power network, including generation plants, electrical grid, substations, and local distribution; and
- B. Natural gas pipelines, storage and distribution terminals, as well as the local distribution network.
- C. Projects that are eligible for assistance must meet the below-listed criteria.
 - i. Constructing, repairing or improving infrastructure related to a project, including, but not limited to, making a contribution in aid of construction to an energy-providing utility or cooperative for its constructing, repairing, improving and owning such infrastructure; and
 - ii. Site preparation, related to a project on property owned by a county or municipality; and
 - iii. Site preparation on property owned by the enterprise owning or operating a project.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.4 Project Requirements.

- A. The Applicant must be an incorporated municipality or a county;
- B. The Applicant must follow all state procurement and purchase laws. If an applicant has not advertised for bids within 120 days after receiving loan approval, the state will have the option to recall the funds;
- C. If two separate local units of government jointly fund a project, the Applicants must have an inter-local agreement with the Attorney General’s approval;

- D. The Applicant's certified public accountant, auditor, or fiscal officer must verify on official letterhead that the financials reflect the applicant's ability to repay the loan. The verification must include the source of repayment;
- E. The Applicant's certified public accountant, auditor, or fiscal officer must furnish to MDA the most current annual audit and the latest financial summary reflecting any additional long-term debt or any changes in their financial position since the last annual audit was prepared;
- F. The Applicant must give public notice, as required. (All applicants must use the attached Public Notice and it must have been published within the last six months prior to submittal of the loan application);
- G. Once the publication process is complete, a certified copy of the Applicant's minutes must be submitted to MDA showing their decision to proceed with the loan;
- H. The Applicant must fulfill the requirements of the standard application, which must be submitted to MDA for review and acceptance;
- I. The Applicant must provide documentation verifying other funding sources, *if applicable*;
- J. Prior to the execution of a loan agreement, relevant parties to the project shall enter into an agreement, in a manner acceptable to MDA that stipulates the terms of the energy infrastructure investment and responsibilities among parties. Agreement can be defined as an MOU or similar acceptable document;
- K. Commitment Letter from private sources, *if applicable*;
- L. The project must meet all applicable local, state, and federal requirements, including obtaining any required Mississippi Public Service Commission's approval prior to loan agreement being signed.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.5 General Loan Terms. The terms of the loan will be determined on a case-by-case basis, but must be reasonable and shall not exceed twenty (20) years. The loan amount allowed will be determined by the Applicant's ability to repay the loan within acceptable terms. The loan amount cannot exceed one hundred percent (100%) of eligible costs as established by MDA.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.6 Additional Loan Terms. MDA may require county, municipal or private participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving loan fund. MDA may establish a maximum amount for any loan. Loan repayments shall be deposited into the revolving loan fund. The fixed rate of interest will be three percent (3%). The rate of interest on all loan funds is calculated according to the actuarial method. Each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments, or (iii) other periodic payments.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.7 Expenditure of Loan Funds. The Applicant will be required to expend all loan funds within two (2) years from the date of loan approval, unless a waiver is granted upon good cause

shown.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.8 Liens. A county that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.9 Loan Application. The application to be submitted by an applicant must include:

- A. A detailed description of the project and narrative explaining how the specific improvements will affect economic development and/or job creation in the area, together with supporting documentation, to include a detailed map showing the location of the proposed project. Maps must explicitly correspond to the proposed scope of activities within the project. Applications must include a general vicinity map and a project specific map, including before and after pictures.
- B. Engineering Cost Estimates: Include a general cost estimate. Cost estimate must be submitted by an engineer or architect on their letterhead as a signed and stamped original. A limited amount of funds may be used for engineering/architectural cost. The amount of these professional services will be limited to an amount not to exceed 10% of the loan award amount.
- C. The estimated cost of the total project with a detailed breakdown of all public and private sources of funding.
- D. The time schedule for implementation and completion of the project, evidencing an expeditious completion of the project.
- E. Submit company balance sheets, income statements and statements of cash flow for the previous three (3) fiscal years and current statements dated within ninety (90) days of application or a letter of credit, from a federally insured financial institution.
- F. A statement of willingness to comply with non-discrimination and equal employment opportunity requirements.
- G. Signed Source and Use of Funds Disclosure Form.
- H. No approved applicant will be allowed to use excess funds to pay for the project costs that vary from the original project description.
- I. All requested changes and variances from the original application should be made in writing and will be reviewed by MDA on a case by case basis.
- J. Submit a complete Budget Sheet.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.10 Application Format. Two (2) copies of the application must be submitted to MDA. Complete applications must be submitted with **BOTTOM TABBED DIVIDERS IN BETWEEN EACH ATTACHMENT**. All documentation should have original signatures. MDA will evaluate the application to determine if the project meets program criteria.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.11 Application Process. Any local entity seeking funding should contact an MDA Global Division or Existing Industry & Business Division's project manager. After the initial evaluation determines the project meets MDA standards, they will contact the Energy and Natural Resources (ENR) Division to discuss the project. Then upon request, the local entity should send the following information to ENR:

- A. Project Proposal
- B. Engineering cost estimate
- C. Budget page

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.12 Loan Closing. Based upon the terms and conditions established by MDA, MDA will prepare all security and loan documents, including but not limited to, the Loan Agreement and Promissory Note, (collectively "Loan Documents"). Prior to disbursement of any funds, all Loan Documents must be fully executed. The loan documents will be executed between the local entity and MDA. All funds will flow through the local entity.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.13 Reimbursement Process. MDA will release loan funds on a reimbursement or services rendered basis for approved eligible costs of the project as incurred. The applicant shall certify to MDA that the expenses were incurred and were in accordance with the project as approved by MDA. Funds will be released periodically upon receipt of supporting documentations from the applicant based upon a schedule established by MDA.

- A. Local entities will have three (3) years from the date of the agreement to request reimbursement for funds. Failure to implement and complete the project may result in the agreement being voided and funds de-obligated.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.14 Site Visits. MDA staff will make periodic site visits throughout the project. MDA staff will give at least one week notice of any upcoming site visit.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.15 Audit. Loans made under the Energy Infrastructure Revolving Loan Program are subject to audit by the Mississippi Office of the State Auditor. Additionally, MDA will also monitor all projects to ensure compliance with the original application submitted.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.16 Penalties. An Applicant which fails to meet repayment obligations shall cause all or part of its sales tax allocation and/or homestead exemption reimbursement to be withheld and

may be subject to other penalties pursuant to Miss. Code Ann. § 57-1-303(4)).

Rule 3.17 Delinquent Notice Process. Each loan agreement shall provide for monthly payments, semi-annual payments, or other periodic payments. Invoices will be sent to communities with an active loan based upon the payment schedule. Payments are due on the first day of the month in which payments are scheduled to be made. Failure to submit timely payments may result in the following procedures:

- A. If a community is 30 days delinquent, MDA may issue a letter stating the catch-up amount, terms of their loan agreement and explain the process for turning collection over to the State Auditor.
- B. If a community is 60 days delinquent, MDA may issue the same letter with the new catch-up amount.
- C. If a community is 90 days delinquent, MDA may issue the same letter with the new catch-up amount.
- D. If a community is 120 days delinquent, MDA may issue a letter stating in 30 days if catch-up payment amount has not been received, then MDA will turn the community over to the state auditor.
- E. If a community is 180 days delinquent, MDA may request the State Auditor to audit the receipts and expenditures of the loan (Section 57-1-303(5)). If the State Auditor finds that the county or municipality is in arrears in payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Mississippi Development Authority.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.18 Waiver. These guidelines may be amended by MDA at any time. MDA, in its discretion, may temporarily waive any requirement of the guidelines to the extent that the result of such waiver is to promote the public purpose of the Act and is not prohibited by State Law.

Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).

Rule 3.19 Authority. The Energy Infrastructure Revolving Loan Program is authorized under Miss. Code Ann. § 57-40-1 et. seq. (1972, as amended).